1949. K File No. B. Expiring Laws Continuance

Legal DEPARTMENT II/49

B BRANCH

Subject:—

A Bill to continue certain & expiring laws and to make certain amendments therein

P3E

File No. B. Expiring Laws Continuance 11/49

Std. Sectt. Slip 24 B e.

533-B

Legal Department.

CONFIDENTIAL.

The Bihar Maintenance of Public Order Act, 1947, was an Act temporary in duration due to expire after one year from the date of its commencement. The proviso to section 1 of that Act, however, empowered the Provincial Government by notification, on the Resolution passed by the Bihar Legislative Assembly and agreed to by the Bihar Legislative Council, to direct that the Act shall remain in force for a further period of one year with such modifications, if any, as may be specified in the notification. The validity of the proviso was challenged in the case of "Jatindranath Gupta v. Province of Bihar and ors.", and the case went in appeal to the Federal Court. The appeal was recently decided by the Federal Court, which held that the proviso was ultra vires of the Legislature.

2 In view of the decision of the Federal Court, it is necessary to examine the Bombay Acts with a view to finding out if they contain similar provisions.

3. The Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, and the Bombay Land Requisition Act, 1948, are Acts of temporary duration due to expire on 31st day of March 1950. They contain a provision whereby power is given to the Provincial Government to direct that the Act shall remain in force for a further period not exceeding two years. (See section 3 of the Acts). In view of the Federal Court judgment, these provisions are ultra vires of the Legislature. It is, therefore, necessary to delete these provisions and to undertake legislation to continue the life of the

Acts.....

Acts for such further period as Government may think proper. Necessary action in respect of these Acts is being taken by this Department.

4. The * Department is requested to examine the other Bombay Acts with which it is concerned with a view to finding out if any of them contains similar provisions and to intimate to this Department, by the 18th July 1949 at the latest, whether such provisions should be deleted, the date upto which the Act should be kept in force and whether any other amendments are to b e made in the Act.

5. The Health and Local Govt. Department is also
Revenue Department
requested to state whether the life of the

Bombay Rates, Hotel and Lodging House Rates Control Act,1947
Bombay Land Requisition Act, 1948

should be extended up to 31st day of March 1952 or some other date as may be decided by Government and whether any other amendments are to be made in the Act.

Id/- J.R.D.
4/7

Additional Secretary to Government.

U.R. to * No. 421-Confl. dated the 11th July 1949.

JPE.2/6/56
4 copies.

4/6

Legal Department.

Submitted with reference to H.M.(L)'s minute dated 29/6/1949 at p. 3-4 ante.

2. As directed all the Departments were asked to examine the Bombay Acts with which they are concerned with a view to finding out if any of them contains a provision for extending the life of the Act by resolution of the Legislature or by notification of the Provincial Govt. Such provision has been held as ultra vires by the Federal Court and will have to be suitably replaced.

3. It will be seen from the replies given by the Departments that except the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 and the Bombay Land Requisition Act, 1949, no other Bombay Act contains such provision. Both these Acts are to be amended for other purposes at the ensuing session of the Legislature and the Deptts. concerned have been supplied with requisite draft Bills in which provision has been made to extend the life of the Acts by two years more.

4. It is not now necessary to have a separate Expiring Laws Continuance Bill. These papers may therefore be recorded after H.M. (L) has seen.

Id/- .

S.A.G. - Id/-

Addl. Secy. Id/- J.R.D. 10/8

Resubmitted for information.

File in B Expiring Laws Continuance/49.

R.L.A.(for information) Id/- P.M.L. 12/8

JPB.2/6/56.4c.